S.B. CIVIL MISC. APPEAL NO.1778/2006.
Karma Vs. Rupa Ram & Ors.

Date of Order :: 25th July 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. I.R. Choudhary, for the appellant.
Mr. Anil Bachhawat, for the respondent No.3.

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Having heard learned counsel for the appellant at length and having perused the record, this Court is clearly of opinion that the impugned award dated 28.03.2006 as made by the Motor Accidents Claims Tribunal, Jodhpur in Claim Case No.10/2005 rules out any scope for enhancement; and thus, the present appeal on behalf of the claimant does not merit admission.

The claimant-appellant, about 4-5 years in age, sustained crush injury on her left foot due to a vehicular accident that occurred on 10.09.2002. In the claim for compensation made on behalf of the claimant, the learned Tribunal found the accident to have occurred for rash and negligent driving of the loading taxi bearing registration No. RJ 19 1 G 426 and held the driver, owner and insurer of the said vehicle liable towards compensation.

For quantification of compensation, the learned Tribunal referred to the injury report Ex.8 and X-ray reports Ex.9 and 10 and found with reference to the disability certificate Ex.30 that

the injuries led to 3.38% permanent partial disablement. The learned Tribunal found that at the relevant time, the claimant was studying in 1st Standard and in the overall circumstances of the case considered it appropriate to allow compensation in the sum of Rs.1,11,645.24, while allowing Rs.5,000/- towards one grievous injury; Rs.1,000/- towards one simple injury; Rs.50,000/- with reference to 3.38% permanent disablement keeping in view the effect on future likely earning prospects; Rs.645.24 towards bills of medical expenditure; Rs.15,000/- towards mental and physical agony; Rs.35,000/- towards other adverse effects on the future of the claimant; and Rs.5,000/- towards other incidental expenses. The learned Tribunal further allowed interest @ 7.5% per annum from the date of filing of the claim application.

Learned counsel for the appellant has vehemently contended that looking to the injuries suffered by the minor claimant and its after-effects, the amount awarded by the Tribunal remains too low and grossly inadequate. Learned counsel further submitted that the injured claimant was required to be hospitalised and operated twice over and the Tribunal has been in error in allowing a meagre amount of Rs.645.24 towards treatment expenditure.

Having examined the record in its totality, this Court is satisfied that the amount awarded by the Tribunal in the

present case cannot be said to be low or inadequate. The injured claimant has, of course, suffered crush injury on her left foot and fracture of great toe with fracture of second meta-tarsal and has remained hospitalised from 10.09.2002 to 15.09.2002, then from 22.10.2002 to 30.10.2002 and from 07.12.2002 to 08.12.2002 but ultimately the effect of the injury has led to permanent partial disablement at 3.38% as per the certificate Ex.30 drawn on 14.07.2005. In the overall circumstances of the case, the Tribunal could only be said to have liberally awarded the amount of compensation by allowing, in all, a sum of Rs.85,000/- towards adverse effects on the future prospects of the claimant. The amount of medical expenditure has been allowed with reference to the bills produced on record and it does not appear that any additional expenditure had been incurred on behalf of the appellant. The Tribunal has further liberally allowed interest @ 7.5% per annum from the date of filing of the claim application.

In the ultimate analysis, the award as made by the Tribunal cannot be said to be low or inadequate and rules out any scope for enhancement.

The appeal fails and is, therefore, dismissed.

(DINESH MAHESHWARI), J.

Mohan/-